

(3) The presiding officer may order that the hearing be continued for a reasonable period following completion of witness testimony or oral argument to allow additional written submissions to the hearing record.

(4) A Respondent shall bear the burden of demonstrating that his or her continued employment by or service with the credit union would materially strengthen the credit union's ability to—

(i) Become “adequately capitalized,” to the extent that the directive was issued as a result of the credit union's net worth category classification or its failure to submit or implement a net worth restoration plan or revised business plan; and

(ii) Correct the unsafe or unsound condition or unsafe or unsound practice, to the extent that the directive was issued as a result of reclassification of the credit union pursuant to §§702.102(b) and 702.302(d) of this chapter.

(5) Within 20 calendar days following the date of closing of the hearing and the record, the presiding officer shall make a recommendation to the NCUA Board concerning the Respondent's request for reinstatement with the credit union.

(f) *Time for final decision.* Not later than 60 calendar days after the date the record is closed, or the date of the response in a case where no hearing was requested, the NCUA Board shall grant or deny the request for reinstatement and shall notify the Respondent of its decision. If the NCUA Board denies the request for reinstatement, it shall set forth in the notification the reasons for its decision. The decision of the NCUA Board shall be final.

(g) *Effective date.* Unless otherwise ordered by the NCUA Board, the Respondent's dismissal shall take and remain in effect pending a final decision on the request for reinstatement.

§ 747.2005 Enforcement of orders.

(a) *Judicial remedies.* Whenever a credit union fails to comply with a directive imposing a discretionary supervisory action, or enforcing a mandatory supervisory action under part 702 of this chapter, the NCUA Board may seek enforcement of the directive in

the appropriate United States District Court pursuant to 12 U.S.C. 1786(k)(1).

(b) *Administrative remedies—(1) Failure to comply with directive.* Pursuant to 12 U.S.C. 1786(k)(2)(A), the NCUA Board may assess a civil money penalty against any credit union that violates or otherwise fails to comply with any final directive issued under part 702 of this chapter, or against any institution-affiliated party of a credit union (per 12 U.S.C. 1786(r)) who participates in such violation or noncompliance.

(2) *Failure to implement plan.* Pursuant to 12 U.S.C. 1786(k)(2)(A), the NCUA Board may assess a civil money penalty against a credit union which fails to implement a net worth restoration plan under subpart B of part 702 of this chapter or a revised business plan under subpart C of part 702, regardless whether the plan was published.

(c) *Other enforcement action.* In addition to the actions described in paragraphs (a) and (b) of this section, the NCUA Board may seek enforcement of the directives issued under part 702 of this chapter through any other judicial or administrative proceeding authorized by law.

[65 FR 8594, Feb. 18, 2000, as amended at 67 FR 71094, Nov. 29, 2002]

PART 748—SECURITY PROGRAM, REPORT OF CRIME AND CATASTROPHIC ACT AND BANK SECRECY ACT COMPLIANCE

Sec.

748.0 Security program.

748.1 Filing of reports.

748.2 Procedures for monitoring Bank Secrecy Act (BSA) compliance.

APPENDIX A TO PART 748—GUIDELINES FOR SAFEGUARDING MEMBER INFORMATION

AUTHORITY: 12 U.S.C. 1766(a), 1786(q); 15 U.S.C. 6801 and 6805(b); 31 U.S.C. 5311 and 5318.

§ 748.0 Security program.

(a) Each federally insured credit union will develop a written security program within 90 days of the effective date of insurance.

(b) The security program will be designed to:

(1) Protect each credit union office from robberies, burglaries, larcenies, and embezzlement;

§ 748.1

12 CFR Ch. VII (1–1–04 Edition)

(2) Ensure the security and confidentiality of member records, protect against anticipated threats or hazards to the security or integrity of such records, and protect against unauthorized access to or use of such records that could result in substantial harm or serious inconvenience to a member;

(3) Assist in the identification of persons who commit or attempt such actions and crimes; and

(4) Prevent destruction of vital records, as defined in 12 CFR part 749.

[50 FR 53295, Dec. 31, 1985, as amended at 53 FR 4845, Feb. 18, 1988; 66 FR 8161, Jan. 30, 2001]

§ 748.1 Filing of reports.

(a) *Compliance report.* Each federally insured credit union shall file with the regional director an annual statement certifying its compliance with the requirements of this part. The statement shall be dated and signed by the president or other managing officer of the credit union. The statement is contained on the Report of Officials which is submitted annually by federally insured credit unions after the election of officials. In the case of federally insured state-chartered credit unions, this statement can be mailed to the regional director via the state supervisory authority, if desired. In any event, a copy of the statement shall always be sent to the appropriate state supervisory authority.

(b) *Catastrophic act report.* Each federally insured credit union will notify the regional director within 5 business days of any catastrophic act that occurs at its office(s). A catastrophic act is any natural disaster such as a flood, tornado, earthquake, etc., or major fire or other disaster resulting in some physical destruction or damage to the credit union. Within a reasonable time after a catastrophic act occurs, the credit union shall ensure that a record of the incident is prepared and filed at its main office. In the preparation of such record, the credit union should include information sufficient to indicate the office where the catastrophic act occurred; when it took place; the amount of the loss, if any; whether any operational or mechanical deficiency(ies) might have contributed to the catastrophic act; and what has

been done or is planned to be done to correct the deficiency(ies).

(c) *Suspicious Activity Report.* (1) Each federally-insured credit union will report any crime or suspected crime that occurs at its office(s), utilizing NCUA Form 2362, Suspicious Activity Report (SAR), within thirty calendar days after discovery. Each federally-insured credit union must follow the instructions and reporting requirements accompanying the SAR. Copies of the SAR may be obtained from the appropriate NCUA Regional Office.

(2) Each federally-insured credit union shall maintain a copy of any SAR that it files and the original of all attachments to the report for a period of five years from the date of the report, unless the credit union is informed in writing by the National Credit Union Administration that the materials may be discarded sooner.

(3) Failure to file a SAR in accordance with the instructions accompanying the report may subject the federally-insured credit union, its officers, directors, agents or other institution-affiliated parties to the assessment of civil money penalties or other administrative actions.

(4) Filing of Suspicious Activity Reports will ensure that law enforcement agencies and NCUA are promptly notified of actual or suspected crimes. Information contained on SARs will be entered into an interagency database and will assist the federal government in taking appropriate action.

[50 FR 53295, Dec. 31, 1985, as amended at 53 FR 26232, July 12, 1988; 58 FR 17492, Apr. 5, 1993; 61 FR 11527, Mar. 21, 1996]

§ 748.2 Procedures for monitoring Bank Secrecy Act (BSA) compliance.

(a) *Purpose.* This section is issued to ensure that all federally-insured credit unions establish and maintain procedures reasonably designed to assure and monitor compliance with the requirements of subchapter II of chapter 53 of title 31, United States Code, the Financial Recordkeeping and Reporting of Currency and Foreign Transactions Act, and the implementing regulations promulgated thereunder by the Department of Treasury, 31 CFR part 103.